1942.

File No. B. Local Authorities Loan/42

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Legal DEPARTMENT.

B. BRANCH

P-11-42

Subject.

Governor's Bill No II of 1942. A Bill to amend the Local Authorities Loans Act, 1914 in its application in the Province of Bombay (amendt of S.7)

Bom. II of 1942

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GOVERNOR'S BILL NO. OF 1941.

A Bill to amend the Local Authorities Loans Act, 1914, in its application to the Province of Bombay.

Whereas it is expedient to amend the Local Authorities Loans Act, 1914, in its application to the Province of Bombay;

IX of 1914.

And whereas the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

26 Geo. 5 Ch. 2.

Now, therefore, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:-

Short title.

1. This Act may be called the Local Authorities Loans (Bombay Amendment) Act, 1941.

Amendment of section 17 of Act IX of 1914.

2. After clause (b) of the proviso to section 7 of the Local Authorities Loans Act, 1914, in its application to the Province of Bombay the following shall be inserted, namely:-

IX of 1914.

"or

(c) to preclude any district local board established under section 4 of the Bombay Local Boards Act, 1923, from receiving an advance from the Government of Bombay equivalent to the amount of the cess, levied under sub-section (1) of section 93 of the said Act, which has not been collected or the collection of which has been suspended

Bom. VI of 1923.

under sub-section(2) of the said section 93".

M.V.V.
27/4.

Office of the R.L.A.

Although the Local Authorities Loans Act, 1914, is an Act passed by the Central Legislature, an amendment of that Act in relation to local authorities other than cantonment authorities and port authorities in major ports, is a Provincial subject under entry No. 13 in List II in the Seventh Schedule to the Government of India Act, 1935. The Provincial Legislature is therefore competent to amend the Act.

2. The requisite draft Bill for an amendment of section 7 of the Act is appended. The Bill does not relate to any entry in the Concurrent Legislative List and it is not necessayy to reserve it for the consideration of the Governor General with reference to section 107(2) of the Government of India Act, 1935, and para.2 of the Proclamation. It is however, necessary under executive instructions to obtain the previous approval of the Governor General to the Bill.

3. During the period of Proclamation, Bills are not published in the Gazette and it is not necessary therefore to have any statement of Objects and Reasons to the Bill.

Sd.
21/7.
Remembrancer of Legal Affairs.

U.R. to G.D. No. 6412 dated the 22nd July 1941.

M.V.V.
27/4.

No. 943

Legal Department.
Bombay Castle, 2nd. February 1942.

From,

P.N. Moos, Esquire, Bar-at Law, I.C.S.,
Secretary to the Government of Bombay.

To,

The Secretary to the Governor of Bombay.

Subject:-A Bill to amend the Local Authorities Loans Act, 1914, in its application to the Province of Bombay.

Sir,

With reference to your Memorandum No. 201(38) dated 29th September 1941 addressed to the General Department, on the above subject, I am directed to forward herewith for the assent of His Excellency the Governor, a copy of the Bill to amend the Local Authorities Loans Act, 1914, in its application to the Province of Bombay, prepared by His Excellency the Governor under paragraph (2) of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India, Act, 1935.

2. None of the provisions of the Bill affects any special responsibility of the Governor under section 52(1) of the Government of India Act, 1935 or falls within the purview of clause (a), (b), (c) or (d) of paragraph XVII of the Instrument of Instructions to the Governor of Bombay.

3. The subject matter of the Bill falls under entry No. 13 in the Provincial Legislative List in the Seventh Schedule to the Government of India Act, 1935. None of the provisions of the Bill is repugnant to the provisions of any earlier Federal law or existing Indian Law with respect to any enumerated in the Concurrent Legislative List. It is not, therefore, necessary to reserve the Bill for consideration of the Governor General with reference to paragraph (2) of the

P.T.O.

Proclamation and section 107(2) of the Government of India Act, 1935.

4. The date on which His Excellency the Governor's assent is given may kindly be entered in the endorsement.

5. I am also to forward herewith one spare copy of the Bill.

I have the honour to be,

Sir,

Your most obedient servant,

Sd/- P.H.Hoog.-

Secretary to the Govt. of Bombay,
Legal department.

Through

The Secretary to the Government of Bombay,

General Department.

M.V.V.
27/4.

Legal Department.

The Bill to amend the Local Authorities Loans Act, 1914, in its application to the Province of Bombay has been forwarded separately through the General Department to the Secretary to the Governor for obtaining the assent of His Excellency the Governor to the Bill.

2. A draft notification under section 92(1) of the Government of India Act, 1935, for applying the proposed Act to the partially excluded areas in this Province is furnished herewith to the General Department. If it is decided to apply the Act to the said areas, the notification should be published in the Bombay Government Gazette on or after the date on which the Act will be published in the Bombay Government Gazette.

3. Attention of the General Department is requested to this Department Circular No. 7627 dated the 29th August 1941. In this case orders of Government whether the Act should be applied to the partially excluded areas in this Province should have been obtained and communicated to this Department at the time of forwarding the papers for obtaining assent to the Bill.

Sd/-

For, Secretary to Government.

U.R. to G.D. No. 944 dated the 2nd February 1942.

M.V.V
27/4.

Notification.

General Department.

Bombay Castle, 1942.

No. In exercise of the powers conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor of Bombay is hereby pleased to direct that the Local Authorities Loans (Bombay Amendment) Act, 1942 (Bom. + of 1942) shall apply to the partially excluded areas in the Province of Bombay.

+ To be filled in by G.D.

By order of the Governor of Bombay,

Secretary to Government.

M.V.V.
27/4.

No. 201 (38).
Office of the Governor's Secretary,
Government House,
Bombay, 11th February 1942.

From

J. B. Irwin, Esquire, DSO. MC. ICS.
Secretary to the Governor of Bombay.

To,

The Secretary to Government,
Legal Department, Bombay.

Subject:- The Local Authorities Loans (Amendment) Bill, 1942.

Sir,

With reference to your letter No. 943, dated the 2nd. February 1942, I am directed to return herewith the copy of the Bill to amend the Local Authorities Loans Act, 1914, in its application to the Province of Bombay, Prepared by His Excellency the Governor under paragraph(2) of the Proclamation, dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, and to state that under the provisions of the aforesaid paragraph, His Excellency the Governor is pleased to declare that he assents to the Bill in the name of His Majesty.

I have the honour to be,
Sir,
Your most obedient servant,

Sd/-
Secretary to the Governor of Bombay.

M.V.V./27-4.

Acts.

Publication of the Local Authorities Loans (Bombay Amendment) Act, 1942.

GOVERNMENT OF BOMBAY
Legal Department.

Resolution No. 1350.

Bombay Castle, 14th February 1942.

Letter to the Secretary to the Governor, No. 943, dated the 2nd February 1942.

Letter from the Secretary to the Governor, No. 201(38), dated the 11th February 1942.

> " With reference to your letter No. 943, dated the 2nd February 1942, I am directed to return herewith the copy of the Bill to amend the Local Authorities Loans Act, 1914, in its application to the province of Bombay, prepared by His Excellency the Governor under paragraph (2) of the Proclamation, dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, and to state that under provisions of the aforesaid paragraph, His Excellency the Governor is pleased to declare that he assents to the Bill in the name of His Majesty. "

RESOLUTION:- The law should be published as Bombay Act No. II of 1942, in the Bombay Government Gazette dated the 17th February 1942.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the General Department.

By order of the Governor, of Bombay,

Sd/-.
14/2.

(P.N.Moos,
For Secretary to Government.

To,

The Manager, Government Central Press, Bombay (with a copy of the Act and with a request that 15 gazette copies of the Act may be forwarded to the Legal Department.
The General Department.) With a copy o the Ac
+The Oriental Translator to Government.
The Secretary to the Bombay Legislative Council.
The Secretary to the Bombay Legislative Assembly.

+ With five extra copies.

Act

GOVERNOR'S ~~BILL~~ No. II OF 1942

A Bill to amend the Local Authorities Loans Act, 1914, in its application to the Province of Bombay.

WHEREAS it is expedient to amend the Local Authorities Loans Act, 1914, in its application to the Province of Bombay; IX of 1914.

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature; 26 Geo. 5, Ch. 2.

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

1. *Short title.*—This Act may be called the Local Authorities Loans (Bombay Amendment) Act, 1942.

2. *Amendment of section 7 of Act IX of 1914.*—After clause (*b*) of the proviso to section 7 of the Local Authorities Loans Act, 1914, in its application to the Province of Bombay, the following shall be inserted, namely:— IX of 1914.

"or

(*c*) to preclude any district local board established under section 4 of the Bombay Local Boards Act, 1923, from receiving an advance from the Government of Bombay equivalent to the amount of the cess, levied under sub-section (*1*) of section 93 of the said Act, which has not been collected or the collection of which has been suspended under sub-section (*2*) of the said section 93" Bom. VI of 1923.

8M Bk H 1069

STATEMENT.

Under section 93 (*1*) of the Bombay Local Boards Act, 1923, the Provincial Government levies a cess of not less than one anna and not more than 2 annas on every rupee of ordinary land revenue. The amount of cess thus collected is credited to the Local Board concerned and forms its main source of revenue. A portion of the demand sometimes remains uncollected while section 93 (*2*) of the Act provides for the suspension of the collection of the cess in any particular year on the application of the Local Board concerned. Such suspensions are generally sanctioned only in particularly bad years of scarcity, when the collection of ordinary land revenue is also suspended and when it is considered that the collection of even the local fund cess would be a hardship to agriculturists. It has been represented to Government that the loss of revenue during a particular year by the suspension of the cess has serious repercussions on the finances of the Local Boards whose reserves are limited, because—

(*a*) the cess represents the main source of income of the Local Boards,

(*b*) it is in particularly bad scarcity years that the Local Boards will be in most need of money for the adoption of relief measures and the expansion of local public works to provide employment for the scarcity-stricken people.

It is also clear that if the Local Boards are not able, due to the lack of ready funds, to adopt relief measures, the liability of Government in the matter of relief must correspondingly increase. It has, therefore, been suggested that Government should pay the Local Boards the local fund cess that would have been ordinarily due for collection and that Government should recoup the amount when the uncollected or suspended cess is collected in subsequent years. Government has accepted this suggestion.

Advance payments by Government to the Local Boards are loans and are, therefore, permissible only if they are covered by section 3 of the Local Authorities Loans Act, 1914. Advances made in order to cover the payment of the local fund cess not collected are not permissible under the Local Authorities Loans Act as it stands at present. It is, therefore, proposed to amend this Act to enable such payment to be made.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.